

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98055-4056**

In the matter of the petition of

Lufthansa Technik AG

for an exemption from § 25.785(j) of Title 14,
Code of Federal Regulations

**Regulatory Docket No.
FAA-2002-13368**

GRANT OF EXEMPTION

By letter dated July 25, 2002, Mr. Bernhard Conrad, Senior Vice President, Project and Development Engineering, Lufthansa Technik AG, Postfach 63 03 00, D-22313, Hamburg, Germany, petitioned the Federal Aviation Administration for an exemption from § 25.785(j) of Title 14, Code of Federal Regulations. The proposed exemption, if granted, would permit an executive interior to be installed for “private, not-for-hire” use on a Boeing Model 737-800 airplane.

The petitioner requests relief from the following regulation:

Section 25.785(j) – requires a “firm handhold” along each aisle.

The petitioner's supportive information is as follows:

“Petition for Exemption under FAR 11.25 from the following 14 CFR requirements:

“25.785(j), ‘Firm handhold’ in the passenger cabin

“for the Boeing Model 737-800, equipped with an Executive Interior as defined in the attached cabin layout and for ‘Private, not-for-hire use’ and not offered for public conveyance.

“Reference is made to FAA Exemption No. 7572 granted upon Lufthansa Techniks application for the model 737-700IGW series airplane and FAA Exemption No. 7710 for the model 737-800, addressing installation of an executive interior.

“In addition reference is made to the Petition for Exemption submitted by Boeing in connection with the Boeing Business Jet BBJ (B-T113-98-3206, dated May 22, 1999) and the resultant FAA Grant of Partial Exemption No. 6820 and 6820A, which also address a number of reasons why certain exemptions from FAR 25 are considered to be reasonable for airplanes configured for private operation.

“General Background

“Lufthansa Technik (LHT) has been selected by Eagle to complete a Boeing 737-800, MSN 33361, they have purchased from Boeing. LHT has been doing this kind of installation for many years for large Head of State, VIP and Executive aircraft operated in Germany as well as in many foreign countries and is one of the completion centers recommended by Boeing for BBJ’s.

“The Eagle 737-800 airplane is intended to be operated under US registration. The certification is processed in the form of a German Luftfahrt-Bundesamt (LBA) STC for which validation by the FAA is sought under the recently concluded ‘Implementation Procedures for Design Approval, Production Activities, Export Airworthiness Approval, Post Design Approval Activities, and Technical Assistance between Authorities’ in accordance with the Bilateral Aviation Safety Agreement between the U.S. and Germany (BASA IPA). The FAA has accepted our application and has assigned Project Number ST3543NY-T for this project. Assigned project manager is Sol Maroof from the New York ACO.

“Exemption requested for the following provisions of FAR Part 25 taking into consideration the use of the aircraft in a private, not for hire operation. Granting of the exemption is requested by this petition.

“We also respectfully request that the petition be processed and that the publication and the comment procedures as per FAR 11.27 be waived for the following reasons:

- an exemption has been granted before (Boeing 737-700 IGW, exemption No. 7572) and (Boeing 737-800, exemption No. 7710)
- there were no adverse comments on the original petition
- the issue is non controversial
- granting the petition would not set a precedent

“FAR 25.785(j) ‘Firm handhold’ along each aisle

“Exemption Requested:

“That the Boeing Model 737-800, when configured for private use and utilized under operating rules FAR Part 91 or FAR Part 125, be exempted from that part of FAR Part 25.785(j) which requires a firm handhold along each aisle.

“Justification:

“This is a situation which was not addressed under the BBJ exemption. In the 737-800 the issue arises because of its wide fuselage diameter as compared to the relatively narrow fuselage of common business jets. Customers are buying large airplanes because they wish to create a spacious and impressive atmosphere they are used to. The wider body of the 737 satisfies these requirements. On the other hand, the requirement for a firm handhold along aisles cannot be met for certain areas in the passenger cabin due to wide open spaces between individual seat backs which typically provide an adequate handhold. In fact due to its spaciousness there is no readily identifiable ‘aisle’ in the Main lounge and Master Bedroom area. Any construction hanging down from the ceiling would ruin the appearance of the high quality interior and is not acceptable to the customer.

“Occupant Safety Considerations:

“The risk for occupants due to the non availability of direct handholds in certain areas of the passenger cabin is considered acceptable for the following reasons:

- All furniture in the passenger cabin has rounded corners and edges to avoid serious injury in case of turbulence
- The installed bed is heavily upholstered and will not cause injuries when contacted
- Door frames integrated into the cabin layout are a means for the passengers to steady themselves.
- There will be a recommendation to passengers to fasten the belt while resting on the bed.

“Public Interest

“As in the case of the already established Exemptions No. 6820 and 6820A, granting this Petition for Exemption would be clearly in the public interest as it allows efficient and safe carriage of Heads of State and executives in the sought for environment which would otherwise not be possible.

“Without the granting of this exemption the sales opportunities for the Boeing 737-800 would suffer, because the typical and highly desirable VIP type configurations with private quarters and comfortable seating arrangements could no longer be realized.

“Granting the exemption furthermore would be in the interest of international harmonization because a number of authorities worldwide have already accepted configurations as proposed in this petition for exemption.”

FAA Notice and Public Procedure

A summary of the petitioner’s request was published in the Federal Register on October 1, 2002 (67 FR 61722) for public comment. No comments were received.

The Federal Aviation Administration's Analysis/Summary is as follows:

The FAA is giving great attention to the issue of transport category airplanes operated in private use. There are several regulatory requirements, including the one identified by the petitioner, that lend themselves to consideration for modification when looking at the differences between commercial and private use operations. The FAA intends to summarize its views on these regulations and, ultimately, propose modifications to the requirements, where appropriate. It may be that the regulation that is the subject of this petition is included in the proposed modifications, and that additional design flexibility can be offered, when certain circumstances are met. This issue is not resolved at this time, however, and the particular airplane in question must be addressed on its own merits.

While it is true that the major impetus for the requirement referenced in this petition is commercial use, it is incumbent upon the FAA to upgrade design safety as the state of the art progresses, irrespective of the type of operation.

The FAA has reviewed the interior arrangement drawing (DMM.0025-00-00) for this airplane. The FAA has determined that to be effective, handholds should be approximately 33 inches in height minimum, and nominally no more than 65 inches apart from each other. As the petitioner notes, the FAA has previously addressed this issue and relief has been granted. Nonetheless, the main justification for relief is the limitation to private use for the airplane. The FAA agrees that the proposed arrangement provides an acceptable level of safety for a private use, not-for-hire, not-for-common-carriage airplane.

In consideration of the foregoing, I find that a grant of exemption is in the public interest and will not affect the level of safety provided by the regulations. Therefore, pursuant to

the authority contained in 49 U.S.C. 40113 and 44701, delegated to me by the Administrator, Lufthansa Technik is hereby granted an exemption from the handhold requirement of § 25.785(j). This exemption allows the installation of an interior arrangement that does not provide firm handholds for the Boeing Model 737-800 airplane and is subject to the following provisions:

1. The interior is installed as per Drawing DMM.00025-00-00.
2. The airplane is not operated for hire, or offered for common carriage. This provision does not preclude the operator from receiving remuneration to the extent consistent with 14 CFR part 125 and 14 CFR part 91, subpart F, as applicable.

Issued in Renton Washington, on November 19, 2002.

/s/ Ali Bahrami
Acting Manager
Transport Airplane Directorate
Aircraft Certification Service